

# DEPARTMENT OF THE ARMY PERMIT

**Permitted:** SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
3301 GUN CLUB ROAD  
WEST PALM BEACH, FLORIDA 33406

**Permit No:** SAJ-2005-5958(IP-TKW)

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the Permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** The project includes construction and operation of the C-43 West Storage Reservoir resulting in up to 1,018.33 acres of fill in waters of the United States associated with clearing and grubbing and construction of embankments, pump stations, water control structures, and recreational features. Additional works include construction of a manatee barrier and tuffboom in the Caloosahatchee River, a navigable water of the United States. The work described above is to be completed in accordance with the *Caloosahatchee River (C-43) West Basin Storage Reservoir Final Design Submittal 100 Percent Plans dated January 25, 2008 Project I.D. No. P504-8303 in Volumes I through V* prepared by Stanley Consultants, Inc. which are incorporated herein by reference; the State Water Quality Certification (Attachment 1), and the additional attachments affixed at the end of this permit instrument.

**Project Location:** The proposed project site is located in portions of Sections 31 through 36, Township 43S, Range 28E; Sections 6 and 31, Township 43S, Range 29E; Sections 1 through 12, Township 44S, Range 28E, Hendry County, Florida.

Latitude: 26.68171061020  
Longitude: -81.50965468480

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**RECEIVED**

MAR 11 2008

JACKSONVILLE DISTRICT  
USACE

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### Permit Conditions

#### General Conditions:

1. The time limit for completing the work authorized ends on **March 7, 2013**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to

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ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:** The terms used in these permits will have the same definition as those terms in 33 CFR Part 385.3, unless otherwise defined.

1. All submittals and reports required under this permit and all subsequent modifications shall be provided in a single Consolidated Annual Report, i.e., the South Florida Environmental Report on March 1, and must be provided to the following addresses:

U.S. Army Corps of Engineers (USACE)  
Palm Beach Gardens Permits Section  
4400 PGA Blvd., Suite 500  
Palm Beach Gardens, Florida 33410  
Re: Project No: SAJ-2005-5958(IP-TKW)

U.S. Army Corps of Engineers  
Enforcement Section (CESAJ-RD-PE)  
P.O. Box 4970  
Jacksonville, Florida 32232-0019  
Re: Project No: SAJ-2005-5958(IP-TKW)

2. The Permittee shall conduct a pre-construction meeting a minimum of 5 days prior to commencement of construction in order to notify contractors of the requirements of the permit. The Permittee shall provide a minimum of 48 hours advance notification of the pre-construction meeting to the USACE, Palm Beach Gardens Permits Section.

3. The Permittee shall notify the USACE, Palm Beach Gardens Permits Section, in writing at least 48 hours prior to commencement of the work authorized by this permit.

4. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due

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notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

5. Since a portion of the proposed work is located within the Federal right-of-way for the Okeechobee Waterway, **a Department of the Army Consent to Easement is also required prior to commencement of construction.** This permit acknowledges that the Consent to Easement has been issued by the USACE Real Estate Division and is attached to the permit as Attachment 2.

6. The Permittee must provide to the USACE as-built drawings of the authorized work and an As-Built Certification Form (Attachment 3). The drawings and Certification Form must be submitted to the USACE within 60 days of completion of the authorized work, or at the expiration of the construction window of this permit, whichever occurs first. The drawings must be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, the Permittee shall describe, on the As-Built Certification Form, the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. *Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.*

c. The Department of the Army Permit number.

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d. Include pre- and post-construction aerial photographs of the project site, if available.

7. Conditions for projects the Permittee plans to construct in furtherance of the Comprehensive Everglades Restoration Plan (CERP), but which are being constructed in advance of final authorization/approval of the associated CERP Project Implementation Report (PIR) and/or execution of a Project Cooperation Agreement (PCA):

a. The USACE' analysis of this permit application pursuant to applicable regulations and the National Environmental Policy Act (NEPA) may need to be supplemented as new information becomes available and/or to meet requirements for modifications of the permit.

b. The USACE' decision that this project has independent utility is made solely for the purpose of permitting and does not mean that it is or is not a separable project under CERP.

c. Issuing this permit does not constitute approval of any engineering or design for any future consideration of the project under CERP.

d. Future action on related portions of this project or other projects being implemented under CERP may require additional NEPA compliance analysis and documentation or other related analyses under the USACE' Civil Works Planning Process.

e. The issuance of this permit does not constitute a recommendation by the Chief of Engineers for congressional authorization of this project for construction or implementation as a feature or component of an authorized CERP project.

f. The issuance of this permit does not constitute approval of this project as being necessary, integral, and cost effective for consideration of cost sharing for the planning, design, engineering, construction or implementation of a feature of CERP.

g. Any work under an authorized federal project cannot be considered for any mitigation that may be required by issuance of this permit

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h. The Permittee is required to design, construct, and operate the project consistent with the Central and Southern Florida Project as modified.

i. The permit specific conditions will be reevaluated if a PCA is executed on an authorized CERP project, which includes the Acceler8 project feature, in order to relieve the Permittee of specific conditions that are no longer applicable.

8. Environmental Commitments including Water Quality and Hydrologic Monitoring:

a. The Permittee shall employ best management practices with regard to erosion and turbidity control and shall monitor water quality during construction in accordance with the requirements of the *Florida Department of Environmental Protection CERPRA Permit - Construction Authorization, C-43 West Storage Reservoir Project (Structures) No. 0255243-002-GL* dated November 9, 2007 (Attachment 1).

b. Within 90 days of permit issuance the Permittee shall submit a surface, groundwater, and seepage monitoring plan for USACE review and approval. The plan shall include but is not limited to the following information: location of the baseline monitoring stations, frequency of sampling events, and a figure identifying all monitoring locations. Monitoring in accordance with the approved plan shall begin prior to commencement of construction activities.

c. The Permittee shall monitor water quality during operation of the reservoir in accordance with the *Draft Project Operation and Monitoring Plan, Annex D of the Central and Southern Florida (C&SF) Project Comprehensive Everglades Restoration Plan (CERP) Caloosahatchee River (C-43) West Basin Storage Reservoir Project Final Project Implementation Report (Final PIR)* incorporated herein by reference. This permit acknowledges that the Permittee shall ensure the project remain in compliance with State Water Quality Certification for the life of the project. Results of the project water quality monitoring will be provided annually in the South Florida Environmental Report.

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d. In addition to the water quality monitoring plan mentioned in c. above, the Permittee agrees to monitor cyano-bacteria in accordance Table 1 below for a period of at least two years. The two-year monitoring period will commence 6-months after the beginning of operations or when at least one reservoir cell is half full, whichever occurs later.

(1) Cyano-bacteria monitoring shall be conducted monthly at inflow and outflow locations year round for two years. Cyano-bacteria monitoring would be terminated after two years if levels are deemed acceptable. If levels are not deemed acceptable, cyano-bacteria monitoring would continue for an additional 12 months.

(2) The Permittee agrees to add Cell count / speciation to the sampling protocol for the first 24 months of start-up and operations.

(3) Thermal and dissolved oxygen monitoring will be conducted per the existing plan for continuous outfall monitoring (vertical profiler).

e. The Permittee shall monitor algal scum visually on a bi-weekly basis during the two-year monitoring period, at the reservoir, and determine in cooperation with the Florida Department of Environmental Protection and U.S. Environmental Protection Agency (USEPA), if recreation access should be restricted to all or portions of the reservoir. Recreation will be prohibited within the reservoir for the initial 18 to 24 months, minimizing potential concerns for public health.

f. At the end of the two monitoring period, the Permittee shall prepare a summary of collected chlorophyll-a and cyano-bacteria data including the results of the visual monitoring. The report shall be submitted to the USACE, South Permits Section and the USEPA, 400 N. Congress Avenue, Suite 120, West Palm Beach, Florida 33401 within 6-months of the end of the cyano-bacteria monitoring program. If deemed necessary and in cooperation with state and federal environmental resource agencies, the information gained during the cyano-bacteria



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monitoring phase shall be incorporated into reservoir operations, site management and recreation plans, as appropriate.

Table 1: Cyano-bacteria Monitoring  
Parameters and Frequency

Location	Collection Method	Matrix	Frequency	Parameter
All inflows and outflows	Grab	Water	Monthly	Microcystin <sup>1</sup> , cylindrospermopsin <sup>1</sup> , anatoxin-a <sup>1</sup> , Chlorophyll-a and secchi depth
All outflows	In situ	Water	(Vertical profiler - real time)	Temperature, pH, Conductivity, Dissolved Oxygen

<sup>1</sup> Perform species count and chlorophyll-a analysis. If cell counts for any given toxin producing genera (Anabaena, Microcystis, or Cylindrospermopsis) are greater than 100,000 cells/ml and total chlorophyll-a concentration is >20 micrograms/L, perform toxin assays for the toxin(s) of concern.

f. The contract specifications will prohibit the contractor from dumping oil, fuel, or hazardous wastes in the work area and will require that the contractor adopt safe and sanitary measures for the disposal of solid wastes in accordance with federal, state, and local requirements. The Permittee shall develop an environmental protection plan to address concerns regarding monitoring of equipment, maintenance and security of fuels, lubricants, and spill prevention.

g. Demolition debris and concrete or paving materials will be disposed of in accordance with federal, state, and local requirements.

#### 9. Wildlife/Listed Species Conditions:

a. This Department of the Army permit does not authorize you to take a(n) threatened or endangered species. In order to legally take a listed species, you must have separate

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authorization under the Endangered Species Act (ESA) (e.g., an ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The July 23, 2007, United States Fish and Wildlife Service (USFWS) BO for the C-43 WSR incorporated herein by reference contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take or the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, would constitute non-compliance with your USACE permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA. For further clarification on this point, you should contact the USFWS, South Florida Ecological Services, Vero Beach Office, 1339 20<sup>th</sup> Street, Vero Beach, Florida 32961.

b. In order to minimize take to the eastern indigo snake, initial and one subsequent rehydration of the reservoir will be monitored and reviewed to determine if snakes are re-populating the reservoir during drydown events. This permit acknowledges that the extended drydown event is defined as having at least 2,000 acres of the reservoir bottom exposed for a period of 6 weeks and the 2,000 acres can apply to one or both reservoir cells. The 6 week period until rehydration is a target minimum. Monitoring shall be initiated 1-2 weeks prior to rehydration to determine presence, movement, and possible locations of indigo snakes if at all possible.

c. If bald eagle nests are encountered on the project footprint, the USFWS' *Habitat Management Guidelines for the Bald Eagle in the Southeast Region* shall be implemented during construction of the C-43 WSR project. Both the FFWCC and USFWS will be consulted in the event that colonial or solitary wading bird nests are observed within the construction footprint. The USFWS will be notified upon locating a dead, injured, or sick

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wood stork or bald eagle before, during, and after construction of the reservoir.

d. Prior to construction, the Permittee shall inform contractor personnel of the potential presence of threatened and endangered species in the project area, the need for precautionary measures and the ESA prohibition on taking listed species. All Construction contractors will be trained and briefed on how to identify and avoid harm and harassment to federally listed wildlife species as well as conditions under which the USFWS should be notified. The USFWS shall be notified upon observation of nesting activity of any listed federal species.

e. The following special measures will be incorporated during project construction to minimize effects to any listed species that may be present: a) *Standard Protection Measures for the Eastern Indigo Snake* (Attachment 4); b) *Management Guidelines for the Bald Eagle in the Southeast Region and Bald Eagle Standard Local Operating Procedures for Endangered Species*; and c) *Habitat Guidelines for the Wood Stork in the Southeast Region*. Copies of the documents required for items b and c are available on the internet at <http://www.fws.gov/verobeach/Programs/Permits/Section7.html>. These documents are incorporated into the permit by reference.

f. If new overhead electrical lines are constructed near open water to service new pumps, the publication *Suggested Practices for Raptor Protection on Powerlines: The State of the Art in 1996* published by the Avian Powerline Interaction Committee shall be consulted for recommended measures to protect bald eagles from electrocution.

g. The Permittee shall implement the following protocols during construction for protection of the West Indian manatee:

(1) *Standard Manatee Conditions for In-Water Work, 2005* (Attachment 5)

(2) U.S. Fish and Wildlife Service *Guidelines for Culverts Located in Manatee-Accessible CERP Projects* for all in-water work (Attachment 6)

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h. This permit acknowledges that the Permittee will implement all reasonable measures during operation of the reservoir in order to minimize adverse effects to fish and wildlife species provided those measures do not conflict with the overall project purpose. Additionally it is recognized that this condition does not apply to recreational activities such as hunting and fishing.

10. Historic Properties:

a. No work is authorized by this permit on properties listed or eligible for listing in the National Register of Historic Places.

b. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving the subsurface disturbance in the immediate vicinity of such discoveries. The Permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at 850-245-6333 or 800-847-7278. Project activities should not resume without verbal and/or written authorization from the permitting agency.

c. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance within Section 872.05, Florida Statutes.

11. This permit recognizes that authorization to operate the reservoir will be based on USACE approval of a final project operation plan and State Certification of Water Quality for operation of the reservoir.

a. The Permittee shall request USACE approval of a final operations plan at least six months prior to the projected operation of the reservoir. The initial operation plan will be reviewed and approved by the USACE in accordance with current USACE Engineering Regulations and the requirements of the Central & Southern Florida (C&SF) Project as modified.

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b. The project shall be operated in order to achieve the goals and objectives of the C-43 WSR as described in the *Final PIR*.

12. Compensatory Mitigation: The decision on this permit included consideration of system-wide environmental benefits expected to result from the interrelationships of the design, construction, and operation of the work authorized herein and other works to be constructed under Acceler8 including the EAA A-1 Reservoir (SAJ-2005-53(IP-TKW)) and the C-44 Reservoir and Stormwater Treatment Area (C-44 RSTA) (SAJ-2005-6166(IP-TKW)). The system-wide environmental benefits as a result of these three projects are projected to offset the adverse effects of such works, as identified in the mitigation ledger attached to this permit. It is anticipated that all three of these Acceler8 projects will be operational by 2011 and that full environmental benefits as a result of implementation of the projects will be attained by 2020.

The Permittee has demonstrated that it is the goal of the Acceler8 projects to improve the environment of the south Florida ecosystem while providing for other water related needs of the region. The Permittee agrees that in order to achieve system-wide environmental benefits, the Acceler8 projects will be designed, constructed, and operated individually and as a whole consistent with the goals of the C&SF Project as modified. The Permittee's commitments along with the mitigation and monitoring conditions as set out below are the basis for determining that the system-wide operation of the Acceler8 projects will provide system-wide environmental benefits which serve to offset the individual Acceler8 project impacts.

a. This permit acknowledges that the project (including construction of the C-43 test cells) results in a loss of 361.67 functional units based on the Unified Mitigation Assessment Method. This loss is anticipated be offset by benefits realized through construction of the project, the EAA A-1 Reservoir, and the C-44 RSTA. As shown on the Mitigation ledger attached to this permit, Attachment 7, these three Acceler8 projects are anticipated to provide enough functional units by the year 2020 sufficient to offset the adverse effects of this project. If it is determined that the functional units anticipated to be lost

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as a result of this project are not fully offset through implementation of the identified Acceler8 projects by March 1, 2020, the USACE will re-evaluate the project's adverse effects in light of all of the circumstances prevailing at that time, to determine if an alternate and/or supplemental compensatory mitigation plan is needed. Although the full environmental benefits as projected on the ledger are not expected until 2020, the USACE is requiring annual monitoring to ensure the Acceler8 projects are trending toward success, achievement of the restoration targets, and the functional lift projected in the mitigation ledger. See Special Condition number 12.e below.

b. In order to provide the system-wide benefits of this project, the Permittee shall operate the project in accordance with a final operation plan developed consistent with current USACE Engineering Regulations and the requirements of the C&SF Project as modified. The final operation plan will be consistent with the operation plan and operational guidelines identified in the *Final PIR*. The final operational plan will be reviewed and approved by the USACE prior to operation of the project.

c. The final operations plan shall include but will not be limited to a water budget that estimates the appropriate volume and distribution of water necessary to achieve the anticipated system-wide environmental benefits as required to offset the project impacts and necessary to meet the goals of the project. This water will be protected under Special Condition number 12.h below. Any modification to the final operating plan will require Department of the Army approval prior to modification.

d. This permit acknowledges that the mitigation ledger is based on operational assumptions and is therefore, a dynamic evaluation which will continue to be updated by the USACE in coordination with the resource agencies as individual Acceler8 projects come on line, updates of predictive models are made, and a final operations plan is developed.

e. It is the responsibility of the Permittee to achieve the system-wide benefits to which this project contributes. If annual monitoring identifies areas where Acceler8 system-wide environmental benefits are not trending toward success at a reasonable rate of progress, the Permittee and the USACE will review the operating plan to determine if adjustments can be made

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to achieve such benefits. The Permittee shall be required to implement corrective actions necessary to achieve the required environmental lift. If it is determined prior to the permit expiration date that such system-wide environmental benefits can not be achieved through such actions, the Permittee will be responsible for undertaking alternative compensatory mitigation as determined by the USACE to offset project impacts.

f. The Permittee shall not allocate for consumptive use any water made available by the project until it is demonstrated that the project can be operated consistent with the approved operations plan to achieve the project's anticipated environmental benefits as identified in the NEPA documentation for this permit and mitigation ledger. At such time, the water made available for consumptive use will be identified and allocated consistent with the requirements of the NEPA evaluation. The USACE will consider the State's allocation decisions in determining compliance with the mitigation plan and projected system-wide benefits.

g. The Permittee shall provide sufficient financial assurances, determined to be necessary by the USACE, for the performance of all obligations, covenants, terms, conditions, and agreements required under this permit.

h. This permit acknowledges that the mitigation will be conducted consistent with the CERP Adaptive Management Plan which is incorporated herein by reference.

13. Performance Standards: The Permittee shall conduct ecological monitoring for the project as identified in the Acceler8 System-wide Mitigation Monitoring Plan dated July 2007, Attachment 8. Within 90 days of the date of this permit, the Permittee shall update the system-wide mitigation plan to incorporate the ecological monitoring plan components included in Annex D of the *Final PIR*. The monitoring plan will define the performance measures, targets, and success criteria for the mitigation areas identified on the Acceler8 system-wide mitigation ledger.

14. Monitoring and Reporting Timeframes: To show compliance with the performance standards the Permittee must complete the following:

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a. Perform a time-zero monitoring event of the mitigation areas.

b. Submit the time-zero report to the USACE within 60 days of completion of the monitoring event. The report will include a paragraph depicting baseline conditions of the mitigation areas.

c. Perform annual monitoring for a period of no less than 5 years from the time that operation of the reservoir commences.

d. Monitor the mitigation areas and submit annual monitoring reports to the USACE until released in accordance with Special Condition 17 of this permit.

15. Reporting Format: Annual monitoring reports may be provided in the South Florida Environmental Report provided the following information is included. Annual reports must follow a 10-page maximum report format for assessing mitigation sites. The Permittee must submit all documentation to the USACE on 8½-inch by 11-inch paper, and include the following:

a. Project Overview (1 Page):

(1) USACE Permit Number(s).

(2) Name and contact information of Permittee and consultant.

(3) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted.

(4) A summary paragraph defining the purpose for the approved project, acreage and type of aquatic resources impacted, and acreage and type of aquatic resources authorized to compensate for the aquatic impacts.

(5) Written description on the location and any identifiable information to locate the site perimeter(s).

(6) Directions to the project site (from a major highway).



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(7) Dates project commenced and/or was completed.

(8) Short statement on whether the performance standards are being met.

(9) Dates of any recent corrective or maintenance activities conducted since the previous report submission.

(10) Specific recommendations for any additional corrective or remedial actions.

b. Requirements (1 page): List the monitoring requirements and performance standards, as specified in the ecological monitoring plan and special conditions of this permit (Annex D of the *Final PIR*), and evaluate whether the project site is successfully achieving the approved performance standards or trending towards success.

c. Summary Data (maximum of 4 pages): Data must be provided to substantiate the success and/or potential challenges associated with the project. Any photo documentation must be dated and clearly labeled with the direction from which the photo was taken, and be identified on the appropriate maps.

d. Maps (maximum of 3 pages): Maps shall be provided to show the location of the compensatory mitigation sites as identified on the Acceler8 system-wide mitigation ledger relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan.

e. Conclusions (1 page): A general statement must be included describing the conditions of the project and whether the net positive environmental benefits are being achieved. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the Permittee, including a timetable, must be provided.

16. Remediation: If the EAA A-1 Reservoir, C-43 WSR, and C-44 RSTA are not operational by 2012 and/or the mitigation areas fail to meet the performance standards by March 1, 2020, the mitigation will be deemed unsuccessful. Within 60 days of notification by the USACE that the project is unsuccessful, the

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Permittee must submit to the USACE an alternate compensatory mitigation proposal to fully offset the functional loss that occurred as a result of the project. The alternate mitigation proposal may be required to include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful compensatory mitigation activities. The USACE reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of USACE approval, the Permittee will complete the alternate compensatory mitigation proposal.

17. Mitigation Release: Your responsibility to complete the required compensatory mitigation, as set forth in Special Condition of this permit will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the USACE or until a PCA for a CERP project that includes the project is executed and the USACE determines that these mitigation and monitoring conditions are superseded by PCA execution, in whole or in part. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

18. None of the authorizations or conditions in this permit are intended to diminish or alter the governmental authority and powers of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (Tribes), or diminish or alter the rights of those tribes, including rights under any tribal agreement with the Permittee or any agency of the U.S. Government. The Permittee advise this office and the Tribes when the Permittee becomes aware of issues implicating the powers or rights of the Tribes or other issues that may make necessary a modification to the permit.

19. The Permittee shall submit to this office any revisions and/or modifications to the underlying design documents and drawings for the enclosed project plans. The Permittee is advised that failure to provide complete requests for permit modifications or complete monitoring reports as required by any of the conditions above, may prevent this office from issuing future modifications to this permit and authorizations for further

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construction, even if the particular incomplete submittal is for a different portion of the project.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899  
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

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c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170)

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accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the USACE will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as Permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(EXECUTIVE DIRECTOR)

Carol A. Wehle

South Florida Water Management District

3-11-2008

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)

Paul L. Grosskruger

Colonel, U.S. Army

District Commander

4-7-2008

(DATE)

**RECEIVED**  
MAR 16 2008  
JACKSONVILLE DISTRICT  
USACE

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE-SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(NAME-PRINTED)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army  
Permit Number SAJ-2005-5958(IP-TKW)***

1. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit; 15 pages dated November 9, 2007.
2. USACE CONSENT-TO-EASEMENT: 8 pages, dated January 16, 2008
3. AS-BUILT CERTIFICATION FORM: 1 page
4. STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE: 1 page.
5. STANDARD MANATEE CONSTRUCTION CONDITIONS: 2 pages, dated June 2001
6. U.S. FISH AND WILDLIFE SERVICE GUIDELINES FOR CULVERTS LOCATED IN MANATEE-ACCESSIBLE CERP PROJECT: 1 page
7. ACCELER8 SYSTEM-WIDE MITIGATION LEDGER: 1 page, revised January 2008
8. ACCELER8 SYSTEM-WIDE MITIGATION MONITORING PLAN: 7 pages, dated July 2007